

## HOUSE BILL NO. 285

INTRODUCED BY TAYLOR, COCCHIARELLA, TROPILA, ARNTZEN, KEENAN, MORGAN, RASER,  
EATON, WINDHAM

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A VICTIM OF PARTNER OR FAMILY MEMBER  
ASSAULT, SEXUAL ASSAULT, OR STALKING OR A PERSON ELIGIBLE TO PETITION FOR AN ORDER OF  
PROTECTION TO PARTICIPATE IN A PROGRAM THAT PROVIDES THE VICTIM OR ELIGIBLE PERSON  
WITH THE OPPORTUNITY TO REQUEST AND BE GRANTED A ~~FICTITIOUS~~ SUBSTITUTE ADDRESS THAT  
CAN BE USED FOR CERTAIN OFFICIAL PURPOSES; ESTABLISHING ELIGIBILITY FOR INDIVIDUALS TO  
PARTICIPATE IN THE PROGRAM; PROVIDING FOR THE ADMINISTRATION OF THE PROGRAM;  
ASSIGNING CERTAIN DUTIES TO THE ~~SECRETARY OF STATE~~ DEPARTMENT OF JUSTICE; PROVIDING  
FOR CESSATION OF PARTICIPATION IN THE PROGRAM; AND PROVIDING AUTHORITY TO THE  
~~SECRETARY OF STATE~~ DEPARTMENT OF JUSTICE TO ADOPT RULES TO IMPLEMENT THE PROGRAM;  
~~AND AMENDING SECTION 2-15-401, MCA."~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Policy -- program.** (1) It is the policy of this state to ensure the safety  
and security of a victim of partner or family member assault, sexual assault, or stalking or a person eligible to  
petition for an order of protection under 40-15-102 by providing the victim or eligible person with certain, limited  
services.

(2) The assistance and services provided by the state to implement the policy stated in subsection (1)  
are limited to a program administered by the ~~secretary of state~~ DEPARTMENT that provides to a participant:

(a) a ~~fictitious~~ SUBSTITUTE address, ~~known only to the secretary of state,~~ that can be used by the  
participant for official purposes; and

(b) a service that allows the ~~secretary of state~~ DEPARTMENT to:

(i) receive service of process and mail addressed to the participant; and

(ii) forward to the participant any process served on the participant and all mail received on the  
participant's behalf.

1        **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 6 ~~7~~], the following definitions  
2    apply:

3        (1) "Applicant" means a victim and includes a parent or guardian who acts on behalf of a victim.

4        (2) "DEPARTMENT" MEANS THE DEPARTMENT OF JUSTICE.

5        ~~(2)(3)~~ "Participant" means an applicant who has submitted an application pursuant to [section 3] that  
6    has been approved by the ~~secretary of state~~ DEPARTMENT.

7        ~~(3)(4)~~ "Partner or family member assault" has the meaning provided in 45-5-206.

8        ~~(4)(5)~~ "Sexual assault" means sexual assault as defined in 45-5-502, sexual intercourse without consent  
9    as defined in 45-5-503, incest as defined in 45-5-507, or sexual abuse of children as defined in 45-5-625.

10       ~~(5)(6)~~ "Stalking" has the meaning provided in 45-5-220.

11       ~~(6)(7)~~ "Victim" means an individual who has been a victim of partner or family member assault, sexual  
12    assault, or stalking or who is otherwise eligible to file a petition for an order of protection under 40-15-102.

13  
14       **NEW SECTION. Section 3. Fictitious SUBSTITUTE address for participant -- application -- duties**  
15 **of secretary of state DEPARTMENT -- penalty.** (1) A victim WHO IS A RESIDENT OF THIS STATE may apply to the  
16 ~~secretary of state~~ DEPARTMENT to have a ~~fictitious~~ SUBSTITUTE address designated by the ~~secretary of state~~  
17 DEPARTMENT to serve as the official address of the applicant.

18       (2) An application for the issuance of a ~~fictitious~~ SUBSTITUTE address must include:

19       (a) PROOF THAT THE VICTIM IS A RESIDENT OF THIS STATE AND specific evidence showing that, before the  
20    applicant files the application, the applicant has been a victim;

21       (b) the address that is requested to be kept confidential;

22       (c) a telephone number at which the ~~secretary of state~~ DEPARTMENT may contact the applicant;

23       (d) a question asking whether the applicant wishes to register to vote or, if registered, to change the  
24    applicant's address for voter registration;

25       (e) a designation of the ~~secretary of state~~ DEPARTMENT as agent for the applicant for the purposes of  
26    service of process and receipt of mail;

27       (f) the signature of the applicant;

28       (g) the date on which the applicant signed the application; and

29       (h) any other information required by the ~~secretary of state~~ DEPARTMENT.

30       (3) The ~~secretary of state~~ DEPARTMENT shall approve or disapprove an application within 5 business days

1 after the application is filed.

2 (4) (a) The ~~secretary of state~~ DEPARTMENT:

3 (i) shall approve an application that is accompanied by specific evidence that the applicant has been  
4 a victim within 4 years prior to filing the application; and

5 (ii) may approve an application if the applicant does not provide specific evidence or the crime against  
6 the applicant was committed more than 4 years prior to the applicant filing the application.

7 (b) Specific evidence that would meet the requirements of this subsection (4) includes but is not limited  
8 to a copy of an applicable record of conviction, a temporary restraining order, ~~or~~ a protective order granted by  
9 a court of competent jurisdiction, OR A SWORN STATEMENT OF THE VICTIM.

10 (5) If a participant indicates in response to the question asked in subsection (2)(d) that the participant  
11 wishes to register to vote or to change the participant's address used for voter registration:

12 (a) the ~~secretary of state~~ DEPARTMENT shall furnish the participant with a form developed by the  
13 ~~secretary of state~~ DEPARTMENT to register the participant or change the participant's address for voter registration;  
14 and

15 (b) the participant shall complete and sign the form and return it to the ~~secretary of state~~ DEPARTMENT.

16 (6) A person who knowingly attests falsely or provides incorrect information in the application is guilty  
17 of false swearing under 45-7-202.

18  
19 **NEW SECTION. Section 4. Designation of ~~fictitious~~ SUBSTITUTE address -- forwarding of mail --**  
20 **disclosure of confidential address.** (1) Upon approving an application, the ~~secretary of state~~ DEPARTMENT  
21 shall:

22 (a) designate a ~~fictitious~~ SUBSTITUTE address for the participant;

23 (b) receive mail addressed to the participant;

24 (c) forward mail that the ~~secretary of state~~ DEPARTMENT receives on behalf of the participant to the  
25 participant.

26 (2) The ~~secretary of state~~ DEPARTMENT may not divulge in any manner the name of a participant or the  
27 confidential address or ~~fictitious~~ SUBSTITUTE address of a participant unless:

28 (a) the participant's name, confidential address, or ~~fictitious~~ SUBSTITUTE address is requested by a law  
29 enforcement agency, in which case the ~~secretary of state~~ DEPARTMENT shall provide the name, confidential  
30 address, or ~~fictitious~~ SUBSTITUTE address to the law enforcement agency; or

(b) a court of competent jurisdiction orders the ~~secretary of state~~ DEPARTMENT to make the name, confidential address, or ~~fictitious~~ SUBSTITUTE address available, in which case the ~~secretary of state~~ DEPARTMENT shall provide the name, confidential address, or ~~fictitious~~ SUBSTITUTE address to the person identified in the order.

**NEW SECTION. Section 5. Cancellation of fictitious SUBSTITUTE address -- cessation of duty.** (1)

Except as provided in subsections (2) and (3), the ~~secretary of state~~ DEPARTMENT shall cancel the ~~fictitious~~ SUBSTITUTE address of a participant 4 years after the date on which the ~~secretary of state~~ DEPARTMENT approved the participant's application.

(2) The ~~secretary of state~~ DEPARTMENT may not cancel the ~~fictitious~~ SUBSTITUTE address of a participant if, before the ~~fictitious~~ SUBSTITUTE address of the participant is cancelled, the participant shows to the satisfaction of the ~~secretary of state~~ DEPARTMENT that the participant remains in imminent danger of becoming a victim.

(3) The ~~secretary of state~~ DEPARTMENT may cancel the ~~fictitious~~ SUBSTITUTE address of a participant at any time if:

(a) the participant changes the participant's confidential address from the confidential address listed in the application and fails to notify the ~~secretary of state~~ DEPARTMENT within 48 hours after the change of confidential address; or

(b) the ~~secretary of state~~ DEPARTMENT determines that the participant knowingly provided false or incorrect information in the application.

(4) When the ~~secretary of state~~ DEPARTMENT cancels the ~~fictitious~~ SUBSTITUTE address of a participant, the duty of the ~~secretary of state~~ DEPARTMENT to provide the services described in [section 1(2)] to the participant ceases.

**NEW SECTION. Section 6. Rules.** The ~~secretary of state~~ DEPARTMENT shall adopt rules to carry out the provisions of [sections 1 through 6 7], including rules establishing:

(1) a form on which a victim may apply to participate in the program described in [section 1(2)];

(2) a form on which an applicant may declare whether the applicant wishes to register to vote or, if registered, to change the applicant's address for voter registration. The form may be a separate form or may be included as an integral part of the application provided for in subsection (1).

(3) procedures necessary to implement the program.

1 ~~Section 7.~~ Section 2-15-401, MCA, is amended to read:

2 ~~"2-15-401. Duties of secretary of state -- authority.~~ (1) In addition to the duties prescribed by the  
3 constitution, it is the duty of the secretary of state to:

4 ~~(a) attend at every session of the legislature for the purpose of receiving bills and resolutions and to~~  
5 ~~perform other duties as may be devolved upon the secretary of state by resolution of the two houses or either~~  
6 ~~of them;~~

7 ~~(b) keep a register of and attest the official acts of the governor, including all appointments made by~~  
8 ~~the governor, with the date of commission and names of appointees and predecessors;~~

9 ~~(c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and other~~  
10 ~~public instruments to which the official signature of the governor is required;~~

11 ~~(d) record in proper books all articles of incorporation filed in the secretary of state's office;~~

12 ~~(e) take and file receipts for all books distributed by the secretary of state and direct the county clerk~~  
13 ~~of each county to do the same;~~

14 ~~(f) certify to the governor the names of those persons who have received at any election the highest~~  
15 ~~number of votes for any office, the incumbent of which is commissioned by the governor;~~

16 ~~(g) furnish, on demand, to any person paying the fees, a certified copy of all or any part of any law,~~  
17 ~~record, or other instrument filed, deposited, or recorded in the secretary of state's office;~~

18 ~~(h) keep a fee book in which must be entered all fees, commissions, and compensation earned,~~  
19 ~~collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case,~~  
20 ~~which must be verified annually by the secretary of state's affidavit entered in the fee book;~~

21 ~~(i) file in the secretary of state's office descriptions of seals in use by the different state officers;~~

22 ~~(j) discharge the duties of a member of the board of examiners and of the board of land commissioners~~  
23 ~~and all other duties required by law;~~

24 ~~(k) register marks as provided in Title 30, chapter 13, part 3;~~

25 ~~(l) report annually to the legislative services division all watercourse name changes received pursuant~~  
26 ~~to 85-2-134 for publication in the Laws of Montana;~~

27 ~~(m) keep a register of all applications for pardon or for commutation of any sentence, with a list of the~~  
28 ~~official signatures and recommendations in favor of each application; and~~

29 ~~(n) administer the provisions of [sections 1 through 6] by providing a fictitious address and limited~~  
30 ~~services to a victim of partner or family member assault, sexual assault as defined in [section 2], or stalking or~~

1 ~~to a person eligible to petition for an order of protection under 40-15-102.~~

2 ~~——— (2) The secretary of state may develop and implement a statewide electronic filing system as described~~  
3 ~~in 2-15-404."~~

4  
5 NEW SECTION. SECTION 7. IMPLEMENTATION BY STATE AND LOCAL GOVERNMENT AGENCIES. THE  
6 DEPARTMENT SHALL ISSUE THE PARTICIPANT A SUBSTITUTE ADDRESS CARD CONTAINING THE PARTICIPANT'S NAME,  
7 SUBSTITUTE ADDRESS, AND OTHER INFORMATION THAT THE DEPARTMENT DETERMINES APPROPRIATE. ANY STATE OR  
8 LOCAL GOVERNMENT AGENCY THAT NEEDS OR REQUIRES THE PARTICIPANT'S ADDRESS SHALL ACCEPT AND USE THE  
9 ADDRESS ON THE CARD. THE AGENCY MAY MAKE AND FILE A PHOTOCOPY OF THE CARD.

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11 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 6 7] are intended to be  
12 codified as an integral part of Title 40, chapter 15, part 1, and the provisions of Title 40, chapter 15, part 1, apply  
13 to [sections 1 through 6 7].

14 - END -